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EXAMINER				
NEWLIN, TIMOTHY R				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/977,488

**Applicant(s)**

SWART ET AL.

**Examiner**

Timothy R. Newlin

**Art Unit**

2623

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- 7) ☐ Paper No(s)/Mail Date: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments in connection with claim 1 have been fully considered but they are not persuasive. Referring to Fig. 1, Applicant argues that the notification server 14 and the client processing device are not "coupled" to each other as recited in claim 1. The Examiner does not agree with such narrow interpretation of "coupled to." It is a broad term that does not limit the coupling to a direct physical connection or a link with any defined proximity or medium. Omoigui teaches that the client processing devices (which include a user interface 400) are connected to the notification server 14 via a communications network (Fig. 1 and col. 3, 51-60). They are clearly coupled in the sense that they can communicate through a shared medium. Therefore Omoigui does anticipate the claimed element of "a notification data reception module, coupled to the content availability notification module," as further detailed below.

With respect to claims 14 and 20, the arguments are moot in view of the new ground of rejection discussed below.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 6-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Omoigui, US 6,694,352.

3. Regarding claim 1, Omoigui discloses a computer readable medium, having programming executable on a computer **[cols. 5 and 6]**, that provides program content notification related to content available on a video and multimedia program content distribution network, comprising:

a content availability notification module **[notification server 14, Fig. 1, col. 4, 50-54; col. 13, 51-60]**;

a notification data reception module **[user interface unit 400, Fig. 7]**, coupled to the content availability notification module, that receives and processes notification data **[col. 12, 48-50]**, wherein the notification data is used to formulate and transmit one or more content availability notification messages **[col. 12, 45-48]**;

a content schedule and availability analysis module, coupled to the notification data reception module, that receives and processes one or more of content schedule and availability of the program content available on the video and multimedia program content distribution network and user content download requests, and produces processed schedule and availability data **[Analysis/Search Engine 22, Fig. 3, col. 7, 53-63]**;

a content download request analysis module, coupled to the notification data reception module, that processes data from the user download requests for formatting and routing one or more content notification availability forms **[user interface processes and formats request data that is used to generate notifications, col. 12, 12-50]**.

a notification form builder, coupled to the content schedule and availability analysis module, that receives the processed schedule and availability data, and generates a notification form **[registration interface 20, Fig. 3 and 414, Fig. 8; col. 13, 1-48]**

a notification form router, coupled to the notification form builder, that routes notification data for transmission to a user **[notification data is routed to specific users by search engine 22 using client information database 28, cols. 7-8, lines 53-10]**; and

one or more notification modules that provide the program content notification **[notification server 14, Fig. 3]**.

4. Regarding claim 6, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided until an acknowledgement is received by the content availability notification module **[once notified, a user may acknowledge the notification by opting to view the live feed of the presentation, col. 2, 58-64]**. User input is provided at the user interface **[input application 410, Fig. 7]**.

5. Regarding claim 7, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided continually **[users are continuously updated, col. 11, 55-59]**.
6. Regarding claim 8, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided periodically **[col. 9, 31-36]**.
7. Regarding claim 9, Omoigui discloses a means and a computer readable medium wherein the one or more notification modules provide the program content notification **[notification server 14, Fig. 3]**
8. Regarding claim 10, Omoigui discloses a means and a computer readable medium further comprising a user data analysis module, coupled to the notification data reception module that receives and processes user profile data **[step 600, Fig. 6, col. 10, 54-67]**.
9. Regarding claim 11, Omoigui discloses a means and a computer readable medium of claim 1, wherein the notification data are contained in a program content download request **[user can include notification parameters in a request to download (i.e. record) program content, col. 14, 45-50]**.

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10. Regarding claim 12, Omoigui discloses a means and a computer readable medium further comprising a user's profile and history file, wherein the notification data are contained in the user's profile and history file **[step 600 includes profile and viewing history data, Fig. 6, col. 10, 54-67]**.

11. Regarding claim 13, Omoigui discloses a computer readable medium wherein the notification data includes the method of delivery of the program content notification **[notification method, Fig. 8]**.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2-5 and 14-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Omoigui as cited above.

14. Regarding claims 2 and 21, Omoigui discloses a means and a computer readable medium wherein the one or more notification modules comprise:

a user terminal notification module that provides an on-screen notification [e.g., **col. 12, 48-50; Fig. 9**];

an email notification module that provides an email notification [email, **box 422, Fig. 8**];

a pager and wireless notification module that provides one of a voice and a text notification message [pager, **box 422, Fig. 8**]; and

an instant messaging notification module that provides an instant text notification message [notification can be textual, **col. 14, 21-24**];

Omoigui does not teach phone message notifications. However, official notice is taken that telephone message notification is a common and well-known technique of conveying reminder or scheduling information. Moreover, Omoigui suggests the use of an audio device such as a telephone when he states that notifications may be in an audio format [**col. 14, line 23**]. Given the suggestion of Omoigui and the nature of the telephone as a well-known medium to quickly reach customers, it would have been obvious to one skilled in the art to modify Omoigui to explicitly provide for telephone notification.

15. Regarding claims 3 and 22, Omoigui discloses a means and computer readable medium wherein the on-screen notification includes one or more of an on-screen pop up window, an on-screen banner, an icon, and an audible message [**col. 11, 30-39**].



16. Regarding claim 4 and 23, Omoigui discloses means and a computer readable medium wherein the on-screen notification is provided at one of a television and an computer display **[cols. 3-4, lines 61-9]**.

17. Regarding claims 5 and 24, Omoigui discloses a computer readable medium wherein the on-screen notification includes a hyperlink to one or more programs **[col. 10, 29-44]**.

18. Regarding claim 14, Omoigui discloses a method **[for method flow chart, see Fig. 6]**, for notifying users of availability of video and digital multimedia program content in a video and multimedia program content distribution network, comprising:

receiving a program content request, wherein the request specifies desired program content for delivery to a user terminal **[col. 10, 8-28]**;

receiving information related to availability of the desired program content **[cols. 4-5, 41-9]**;

determining a notification protocol to notify the user terminal of the availability of the desired program content **[col. 12, 12-21]**;

analyzing the information related to the availability of the desired program content; generating a notification form; and routing the notification form to one or more notification modules, wherein the one or more notification modules transmit a program content availability notification **[analysis/search engine 22, Fig. 3, col. 7, 53-63]**;

Omoigui does not explicitly state that the source of programming is a television headend. However, he does describe a communications network which can include a private, wide area network, set-top boxes at the client site, and a source that can run programming including television broadcasts **[cols. 3-4, 55-4; col. 9, 28-31]**. One of ordinary skill would readily recognize that a cable television headend fits this description and therefore is or at least could be included in the system taught by Omoigui. In other words, it would be obvious that Omoigui could be implemented in an existing cable network that relies on a headend. For obvious reasons of cost and time, one would not want to create a new network to implement Omoigui but would use existing, well-known cable networks including headends to implement the system.

19. Regarding claim 15, Omoigui discloses a method wherein the step of determining the notification protocol comprises analyzing a user history and profile file **[step 600, Fig. 6, col. 10, 54-67; also see Fig 8., wherein registration interface includes a box 422 where the user can specify a profile in terms of notification protocol]**.

20. Regarding claims 16 and 29, Omoigui discloses a means and a computer readable medium of claim 1, wherein the notification data are contained in a program content download request **[user can include notification parameters in a request to download (i.e. record) program content, col. 14, 45-50]**.

21. Regarding claim 17, Omoigui discloses a method wherein the notification protocol comprises one or more of delivery of an on-screen prompt, an email message, a wireless message, an instant text message, an audio message, and an automated telephone message **[col. 14, 15-24; col. 13, 35-39]**.

22. Regarding claims 18, 19, and 25, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided until an acknowledgement is received by the content availability notification module **[once notified, a user may acknowledge the notification by opting to view the live feed of the presentation, col. 2, 58-64]**. User input is provided at the user interface **[input application 410, Fig. 7]**.

23. Regarding claim 20, Omoigui discloses a system that provides program content notification related to content available on a video and multimedia program content distribution network, comprising:

means for receiving program notification data wherein the receiving means receives and processes notification data **[col. 12, 48-50]**, wherein the notification data is used to formulate and transmit one or more content availability notification messages **[col. 12, 45-48]**;

means for analyzing program content schedule and availability, coupled to the receiving means, wherein the means for analyzing program content schedule and availability receives and processes one or more of content schedule and availability of

the program content available on the video and multimedia program content distribution network and user content download requests, and produces processed schedule and availability data **[Analysis/Search Engine 22, Fig. 3, col. 7, 53-63];**

means for analyzing a program content download request, coupled to the receiving means, wherein the means for analyzing a program content download request processes data from the user download requests for formatting and routing one or more content notification availability forms **[user interface processes and formats request data that is used to generate notifications, col. 12, 12-50];**

means for generating a notification form, coupled to the means for analyzing content schedule and availability, wherein the generating means receives the processed schedule and availability data, and generates a notification form **[registration interface 20, Fig. 3 and 414, Fig. 8; col. 13, 1-48];**

means for routing the notification form, coupled to the generating means, wherein the routing means routes notification data for transmission to a user **[notification data is routed to specific users by search engine 22 using client information database 28, cols. 7-8, lines 53-10];** and

means for providing the program content notification **[notification server 14, Fig. 3].**

Omoigui does not explicitly state that the source of programming is a television headend. However, he does describe a communications network which can include a private, wide area network, set-top boxes at the client site, and a source that can run programming including television broadcasts **[cols. 3-4, 55-4; col. 9, 28-31].** One of

ordinary skill would readily recognize that a cable television headend fits this description and therefore is or at least could be included in the system taught by Omoigui. In other words, it would be obvious that Omoigui could be implemented in an existing cable network that relies on a headend. For obvious reasons of cost and time, one would not want to create a new network to implement Omoigui but would use existing, well-known cable networks including headends to implement the system.

24. Regarding claim 26, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided continually **[users are continuously updated, col. 11, 55-59]**.

25. Regarding claim 27, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided periodically **[col. 9, 31-36]**.

26. Regarding claim 28, Omoigui discloses a means and a computer readable medium further comprising a user data analysis module, coupled to the notification data reception module that receives and processes user profile data **[step 600, Fig. 6, col. 10, 54-67]**.

27. Regarding claim 30, Omoigui discloses a means and a computer readable medium further comprising a user's profile and history file, wherein the notification data

are contained in the user's profile and history file **[step 600 includes profile and viewing history data, Fig. 6, col. 10, 54-67]**.

28. Regarding claim 31, Omoigui discloses a computer readable medium wherein the notification data includes the method of delivery of the program content notification **[notification method, Fig. 8]**.

### ***Conclusion***

29. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Newlin whose telephone number is (571) 270-3015. The examiner can normally be reached on M-F, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art  
Unit 2623

TRN